

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Roberts and Betses CONFIRMATION NO. : 9248
SERIAL NUMBER : 10/816,452 EXAMINER : Neal Sereboff
FILING DATE : March 31, 2004 ART UNIT : 3626
FOR : SYSTEM AND METHODS FOR PROVIDING PHARMACY SERVICES

Via EFS

APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b)

Applicants request reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) to **1348** days as of the mailing of the Notice of Allowance. In support of this request, Applicants submit the following statement of facts pursuant to 37 C.F.R. § 1.705(b).

(i) The United States Patent and Trademark Office (“Office”) calculated the adjustment under 35 U.S.C § 154(b)(1)(A) as **1438** days (USPTO A Delay). Applicants do not dispute this number.

(ii) The correct reduction of patent term under 35 U.S.C § 154(b)(2)(C), for Applicants’ failure to engage in reasonable efforts to conclude prosecution of the application, is **90** days. This number differs from that calculated by the Office by **159** days for the following reasons:

1. Applicants believe that the Office incorrectly attributed **159** days of delay to Applicants under 37 C.F.R. § 1.704 for the amendments filed February 17, 2010 and February 4, 2010. These amendments were filed at the Examiner’s request following certain telephonic interviews. See the Examiner Interview Summary Record (PTOL-413) dated March 8, 2010 and Applicants’ remarks made in their amendments filed February 17, 2010 and February 4, 2010. Accordingly, these two amendments should not be considered a failure by Applicants to engage in reasonable efforts to conclude prosecution.

U.S.S.N.: 10/816,452
Applicant: Roberts and Betses

In summary, Applicants respectfully request an adjustment of patent term to indicate a total PTA of 1348 days, which is the sum of periods under 35 U.S.C § 154(b)(1)(A) (1382 + 56 = 1438 days), less the sum of the periods under 35 U.S.C § 154(b)(2)(C) (90 days), or a total of 1348 days.

The above-identified application is not subject to a terminal disclaimer. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704, other than the circumstances of record.

Applicants reserve the right to request reconsideration of the patent term calculated under 35 U.S.C § 154(b)(1)(B). As of the present time, the delay due to the failure of the Office to issue a patent within three years after the date on which the application was filed is estimated to be 1263 days, which is the period from March 31, 2007 (the day after the date that is the three year anniversary of the application filing date) up to and including September 14, 2010 (the projected issue date, which is the Tuesday preceding the date that is 28 weeks from the date of the Notice of Allowance). This estimate of 1263 days does not account for any overlap between the periods in 35 U.S.C §§ 154(b)(1)(B) and 154(b)(1)(A).

Pursuant to 37 C.F.R. § 1.705(b) and § 1.18(e), the fee required for filing this application for patent term adjustment is believed to be **\$200.00**. Please charge the required fee, and any additional fees due, or credit any overpayment of same, to Deposit Account No. 50-0311, Customer No. 30623, Reference No.: 01374-294.

Respectfully submitted,

/Muriel Liberto/

Date: June 8, 2010

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